



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

JOHN F. KRATTLI  
County Counsel

January 2, 2013

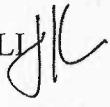
TELEPHONE  
(213) 974-1801  
FACSIMILE  
(213) 626-7446  
TDD  
(213) 633-0901

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Agenda No. 77  
10/30/12

TO: SUPERVISOR MARK RIDLEY-THOMAS, Chairman  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR ZEV YAROSLAVSKY  
SUPERVISOR DON KNABE  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: JOHN F. KRATTLI   
County Counsel

RE: **County Policies and Applicable Laws Regarding the Redaction  
of Social Security Numbers From Documents that are Made  
Public**

**Purpose**

As requested by your Board on October 30, 2012, this is to provide information on County policies regarding the redaction of social security numbers from documents that are made public, as well as applicable laws on this subject.

**Summary**

The County has two policies requiring the protection of confidential information contained in County records, including social security numbers. However, until 2007 these policies did not apply to recorded documents maintained by the Registrar-Recorder/County Clerk ("County Recorder"), since federal and State laws provided that recorded documents which contained all or part of an individual's social security number, were subject to public disclosure without redaction. Legislation adopted in 2007 now requires redaction of social security numbers on recorded documents and the County Recorder has a program to ensure compliance with this law.

## **Analysis**

### **I. Background**

On or about October 26, 2012, Joy Lin, the wife of Dr. Matthew Lin, a candidate for the 49th California Assembly District, filed a lawsuit in Los Angeles Superior Court against Edwin Chau, also a candidate, for publicly disseminating Mrs. Lin's social security number in campaign mailers and advertisements aired on television and the internet. Each displayed a 1997 tax lien recorded by the Employment Development Department ("EDD") and a Notice of State Tax Lien, which contained Mrs. Lin's social security number. The County is not a named party in the lawsuit.

According to court documents, Mr. Chau obtained the tax liens from the County Recorder and subsequently included the public documents in his campaign material. Mrs. Lin and her attorney state that "[b]ack in 1997 the EDD had the right to include Plaintiff's SSN on the EDD Tax Lien . . . , and defendants had the right to access the county recorder's public records and obtain a copy of the EDD Tax Lien. But defendants have no right to publicly disseminate Plaintiff's SSN, period." (Plaintiff's Ex Parte Application 9:2-7).

### **II. Board Policies**

Two Board policies address the protection of personal and confidential information contained in County records, copies of which are enclosed for your reference. Board of Supervisors Policy 3.040, implemented on May 13, 1958 and most recently updated on May 8, 2007, provides general guidelines for each County department regarding the retention, destruction, and protection of confidential records. Policy 3.040 mandates that documents containing social security numbers be properly stored and secured from view by unauthorized persons. In the event of a security breach, the policy provides protocols for prompt reporting, resolution, and prevention of future incidents.

In addition, Board of Supervisors Policy 6.100, adopted in 2004, establishes a Countywide information technology ("IT") and security program to assure appropriate and authorized access to and usage of IT assets. This policy was created to ensure personal and confidential information, such as social security numbers, is protected in compliance with California Penal Code section 502, the Comprehensive Computer Data Access and Fraud Act, and the Health Insurance Portability and Accountability Act ("HIPAA") of 1996.

Department heads are responsible for ensuring that all employees and other users of IT resources are aware of and are in compliance with the two above-referenced policies. All employees and non-County users are required to sign an "Acceptable Use Agreement" as a condition of access to County IT

systems. Each Department head is also required to designate an individual to be responsible for coordinating appropriate use and information security within the department.

### **III. Registrar-Recorder/County Clerk**

Under applicable laws, documents recorded with the County Recorder must contain an individual's name, address, and historically, their complete social security number for identification purposes. Recorded documents are public documents and were previously made available to the public without redaction of social security numbers. In 2007, however, legislation amended portions of the California Civil Code and the Government Code to address protection of personal information and identity theft.

Government Code section 27300 requires the County Recorder to establish a Social Security Number Truncation Program to redact the first five digits of a social security number from documents recorded from 1980 to 2008, in descending chronological order. The truncated duplicate record becomes the "public record" version and is the only version made publicly available. Similarly, for all documents recorded after 2009, a public record version with the truncated social security number must be created immediately upon recordation.

The County Recorder is in the process of truncating social security numbers on documents from 1980 to 2008 in descending chronological order as now required by Government Code section 27300. To date, the County Recorder has completed truncating social security numbers from documents recorded in 2008 and 2007, and has complied with the requirement to immediately truncate all documents recorded since 2009. The County Recorder submits annual progress reports regarding compliance with the Truncation Program to the County Records' Association of the State of California, which will continue to monitor the progress until all documents have been truncated.

Pursuant to Government Code section 27302, the County Recorder shall be deemed to be in compliance with the truncation program requirements, and shall not be held liable for failure to truncate, if the County Recorder uses due diligence to locate and truncate social security numbers. This section provides that due diligence is accomplished by using an automated program, with a high rate of accuracy, to ensure that social security numbers are truncated. In the event a social security number is not yet truncated on a recorded document within the County Recorder's records, any individual may request the County Recorder to truncate the social security number contained in that record. The County Recorder must truncate the recorded record within ten days of such request.

#### **IV. Public Records Act**

The Public Records Act was also amended in 2007 to address the release of documents containing personal information to the public. Government Code section 6254.29(a) provides that "local agencies shall redact social security numbers from records before disclosing them to the public." Accordingly, all County departments responding to requests for public records are required to redact social security numbers in their entirety and other personal information in accordance with the law. However, subsection (c) provides that this requirement "shall not apply to records maintained by a county recorder." This exclusion is based upon the fact that the redaction of social security numbers from documents maintained by the County Recorder is specifically addressed by the Social Security Number Truncation Program referenced in Part III of this memorandum. Civil Code section 1798.85 also prohibits the posting or displaying, in any manner, of an individual's social security number except on documents that are recorded or required to be open to the public pursuant to State or federal laws. Persons who violate this statute may be held liable for civil damages under constitutional and common law invasion of privacy theories.

#### **V. Additional Privacy Protections**

Certain County departments, such as the Department of Mental Health and the Department of Health Services, are also subject to specific federal and State privacy laws requiring protection of personal information. Both of the above departments have access to social security data, including social security numbers, through the State's Medical Eligibility Database. Authorized individuals must sign confidentiality agreements in which they agree to use the data only for certain purposes related to the administration of the Medicaid program. The HIPAA Privacy Rule protects individually identifiable health information, including a patient's social security number. Failure to safeguard this information from unauthorized parties may result in prosecution and loss of medical licenses.

#### **VI. Conclusion**

Federal and State laws, as well as County policies, govern the protection of social security numbers and other confidential information contained in documents maintained by the County. This information is protected and not released to the public except when required by law. However, persons who obtain public records containing personally identifiable information may be held liable for disseminating them to the public at large.

If you have questions concerning this matter, please contact me, Assistant County Counsel Judy W. Whitehurst at (213) 974-1921, or Senior Associate County Counsel LaTayvius R. Alberty at (213) 974-1817.

JFK:LRA:er

Enclosures

c: William T Fujioka  
Chief Executive Officer

Sachi A. Hamai, Executive Officer  
Board of Supervisors



# Los Angeles County BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
3.040	General Records Retention and Protection of Records Containing Personal and Confidential Information	05/13/58

## PURPOSE

Provides general guidelines to be followed by departments regarding the retention and destruction of records and specific procedures for the protection of records containing personal and confidential information.

## REFERENCE

May 13, 1958 Board Order, Synopsis 46

February 28, 2006 Board Order No. 23-A

May 2, 2006 Board Order No. 3

Government Code Section 26202

October 3, 2006 Board Order No. 16

Policy No. 6.100: Information Technology and Security

Policy No. 6.101: Use of County Information Technology and Security

Policy No. 6.106: Information Technology Physical Security

Policy No. 6.107: Information Technology Risk Assessment

May 8, 2007, Board Order No. 26

Policy No. 6.109: Security Incident Reporting

Policy No. 6.110: Protection of Information on Portable Computing Devices

Policy No. 6.111: Information Security Awareness Training

Policy No. 6.112: Secure Disposition for Computing Devices

## **POLICY**

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County departments are to comply with the following general guidelines on records retention and specific procedures pertaining to protection of records containing personal or confidential information pending 1) Board of Supervisors' approval of the General Retention Schedules for common administrative records, which will be applicable to all County departments; and (2) Board of Supervisors' approval of the Retention Schedule specific to the records maintained by a particular department. Thereafter, each department must follow the General Retention Schedules; its specific Retention Schedule; and any policies and procedures approved by the Board of Supervisors regarding records management practices.

### **Records Retention – Generally**

County departments shall retain records that are useful and/or are required by law (including State or Federal law) to be filed and/or preserved. However, County departments may destroy any record, paper or document that:

1. Is more than two years old unless it is required to be held longer pursuant to State or Federal law, County Charter or Ordinance, or Department policy;
2. Is of no further use to the department; and
3. Is not expressly required by any law (including State or Federal law) to be filed and/or preserved.

### **Protection of Records Containing Personal or Confidential Information**

County departments shall secure and appropriately dispose of all records, papers or documents with personal or confidential information.

Confidential information is information that is sensitive, proprietary or personal to which access must be restricted and whose unauthorized disclosure could be harmful to a person, process or to an organization.

Personal information is any information maintained by a department that identifies or describes an individual including, but not limited to, his or her name, social security number, physical description, home address, telephone number, education, financial matters, and medical or employment history.



Paper documents that contain personal or confidential information such as social security numbers, health-related information, or financial information must be properly stored and secured from view by unauthorized persons.

Secure measures must also be employed by all departments to safeguard personal or confidential data contained on all County information technology resources.

Departments must ensure that only authorized personnel may hold and have access to such information.

*(See also Board of Supervisors Policies 6.100 Information Technology and Security, 6.101 Use of County Information Technology Resources, 6.106 Information Technology Physical Security, 6.107 Information Technology Risk Assessment, and 6.110 Protection of Information on Portable Computing Devices.)*

### **Destruction of Records Containing Personal or Confidential Information:**

When records containing personal or confidential information are ready for destruction, departments shall destroy the information completely to ensure that the information cannot be recognized or reconstructed. In addition, any personal or confidential data contained on computer media must be obliterated and/or made indecipherable before disposing of the tape, diskette, CD-ROM, zip disk, or other type of medium.

Each department must provide appropriate methods and equipment to routinely destroy personal or confidential information. The safeguards listed are in priority order with the most highly recommended safeguard listed first. At the minimum, one of the following safeguards must be implemented:

- Conduct due diligence and hire a document destruction contractor to dispose of material either offsite or onsite.
- Require that the disposal company be certified by a recognized trade association.
- Require and validate that the disposal company disk sanitizing software and/or equipment is approved by the United States Department of Defense.
- Review and evaluate the disposal company's information security policies and procedures.
- Review an independent audit of a disposal company's operations and/or its compliance with operations.
- Secure and utilize shredding equipment that performs cross-cut or confetti patterns.
- Secure and utilize disk sanitizing (i.e., erasing) software program approved by the United States Department of Defense.
- Secure and utilize disk erasing equipment (e.g., degausser) approved by the Department of Defense or the National Security Agency.



- Modify the information to make it unreadable, unusable or indecipherable through any means.

(See also Board of Supervisors Policy 6.112 Secure Disposition of Computing Devices.)

### **Confidential Information Incident Reporting**

Each department must disclose to the department's management including the Departmental Information Security Officer any actual or suspected incident in which confidential information is disclosed to, or obtained by, an unauthorized person. Notification of the security incident must be made in the most prompt and expedient manner after the incident has been discovered. In addition, any such incident must be reported to the Fraud Hotline at 800.544.6861 or the Auditor-Controller's Office of County Investigations website at [www.lacountyfraud.org](http://www.lacountyfraud.org) where protocols are in place to respond to the incident.

Within ten days, a letter notifying affected individuals of actual or suspected loss or disclosure of personal or confidential information must be sent by the impacted County department describing the types of information lost and recommended actions to be taken to mitigate the potential misuse of their information.

The Chief Information Security Officer must also be promptly informed of the security breach associated with electronic data in order to communicate with other County departments and identify appropriate measures and safeguards.

*(See also Board of Supervisors Policy 6.109 Security Incident Reporting, and 6.111 Information Security Awareness Training.)*

### **Policy Exceptions**

There are no exceptions to this policy.

### **RESPONSIBLE DEPARTMENT**

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Chief Executive Office

Chief Information Office

### **DATE ISSUED/SUNSET DATE**

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Issue Date: May 13, 1958

Review Date: July 22, 2004

Review Date: October 3, 2006

Review Date: July 23, 2010

Sunset Review Date: May 13, 2003

Sunset Review Date: May 13, 2006

Sunset Review Date: October 3, 2010

Sunset Review Date: October 3, 2014

PAGE 4 PAGE 5



## *Los Angeles County* **BOARD OF SUPERVISORS POLICY MANUAL**

Policy #:	Title:	Effective Date:
6.030	County Website Advertising and Hotlink Policy	07/16/96

### PURPOSE

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Declares the County's intent to utilize the World Wide Web exclusively for public purposes and specifically to publicize and generate interest in County programs and activities, with the County maintaining its websites without advertising or for-profit content, except where such content has a public purpose and/or is of direct benefit to the County.

### REFERENCE

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July 16, 1996, Board Order - Synopsis 33

February 13, 2001, Board Order - Synopsis 15

### POLICY

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The County of Los Angeles is a chartered county and a subdivision of the State of California whose mission is to provide governmental and other public services to and for the benefit of the residents of the County. In accordance with this mission, the general policy of the Board of Supervisors is to exclude from the County Internet website and the website of each County department all commercial advertising and promotional material, including links which provide exclusive private or financial benefit to commercial, non-public enterprises and which do not promote or enhance a public benefit to the County, its departments or the residents served by the County. As a governmental agency, the County neither endorses nor supports individual private commercial enterprises.

Notwithstanding the foregoing, the Board of Supervisors recognizes that, in consideration of the nature and function of the Internet, display of commercial or promotional material or links to commercial sites may, under certain circumstances, be appropriate for inclusion in the County's website or in departmental websites where a public purpose is served. The following guidelines are hereby adopted for the guidance of County department directors in determining when such materials are appropriate for inclusion in County websites.

**1. Advertising/Promotional Materials Where County has Public/Financial Interest**

- A. *Public Benefit Facilities and Venues.* The County has established and maintains certain facilities and venues that promote the arts, science, cultural studies and other public purposes. Advertising and promotion of events, programs and exhibits at such facilities and venues may be placed on the County Internet website and on departmental websites. This includes links to commercial enterprises that market tickets or other means of access to these facilities and venues or foster participation in their programs.

(Examples: Ford Theater link to online ticket agency. Programs/Exhibits at Music Center, Hollywood Bowl, Art Museum, Natural History Museum.)

- B. *Commercial Enterprise in which the County has a Financial Interest.* The County possesses leasehold and other financial interests in certain commercial enterprises, and derives a financial benefit from their activities. This financial benefit to the County serves a public purpose. Accordingly, commercial advertising and other promotional materials concerning these enterprises may appear on County websites. Links to the websites of these enterprises may also be included on the County Internet website and on departmental websites at the discretion of department directors. Appropriate notice should be provided of the County's financial interest in these enterprises.

(Examples: Gladstone's Restaurant, Marina del Rey).

Where a link is provided in the County's website and the user exits the County website and enters a commercial website, notice and a disclaimer must be displayed in accordance with Section 8 below.

**2. Web-based All-Inclusive Information About Private Enterprises Which Provide a Service or Benefit to the Public Where the Service or Benefit is Directly Related to a County Department's Mission or Services.**

Certain commercial and public agencies maintain information about private persons, enterprises and organizations that provide services to the public.

- A. *Public Agency.* Where such information is directly maintained by public agencies, such as lists of licensed childcare providers or lists of restaurants that are graded by the Department of Health Services, County websites may display such information or provide links to the public agency or directly to that information.
- B. *Private Agency.* Where information is maintained by private commercial agencies but the persons or organizations listed provide services directly

related to the mission of a County department or to the services it provides to the public, a department may display such information on its website or provide a link to the information or the commercial agency which maintains such information whether or not the site linked to also contains commercial advertising. In such cases, the department director must make and document a good faith determination that:

- i. The department's clients, service recipients or interested County residents would benefit from the information,
- ii. It would be duplicative for the department to independently create or maintain such information; and,
- iii. The commercial agency that maintains the information has represented that it includes all legitimate or licensed service providers within the County or within the geographical area served by the department.

No link may be provided directly on a County departmental website to any enterprise or organization included in that information.

Where a link is provided in the County website to the agency which maintains the information or to the information, and the user exits the County website and enters a commercial site which may contain advertising or other promotional material, notice and a disclaimer must be displayed in accordance with Section 8 below.

(Examples: A list maintained by a California state agency of licensed child care centers located in the County could be displayed on the website of a department that serves the needs of children and families. A link to the state agency or to the list could be included even if the list maintained by the state agency contained centers both in the County and throughout the state.

A commercially maintained list of newspapers in a particular category or geographic area could be displayed or linked to the Public Information Office website since its mission is directly related to fostering media relations. If displayed, however, no link to an individual newspaper is permitted. If a link is provided to a commercial agency maintaining the list or to the list, the site linked to may contain advertising, but a disclaimer must be displayed on the County's website as the user exits in accordance with Section 8 below.

The Department of Health Services could display a list of public health ratings of all restaurants in the County since public dissemination of such information is directly related to its mission. However, display or linking to a commercial list of popular ratings of restaurants or to an individual restaurant would not be permitted under these guidelines.

Public Works could display a list of names and locations of licensed

recyclers since its mission includes fostering recycling of waste, but could not link to those businesses).

**3. Links to Commercial Sites with Information Critical to or Vitrally Enhancing a County Department's Mission or Services where Replication of Information by Department not Feasible.**

Certain private commercial sites maintain and display information which provides a public or community service or other ancillary static or interactive information to aid the public which is not generally available through a governmental agency due to the cost of compiling, maintaining and/or displaying such information. In order to support the cost of compilation and maintenance of this information, these private commercial sites may include advertising or promotional material in the information display.

Although the County neither supports nor endorses entities advertised or promoted on such sites, it recognizes that a public benefit is served by providing the underlying information to assist County residents. Accordingly, links to such sites that contain this information but also display commercial advertising or promotional material may be included on departmental websites when the department director has made and documented a good faith determination that,

- A. The department's independent replication of the information targeted for linkage is not feasible due to financial or other considerations; and,
- B. No non-commercial site provides the information targeted to linkage; and,
- C. The information targeted for linkage is critical to a service provided by the department, or
- D. The information targeted for linkage is a vital enhancement to the department's mission.

(Examples: The Chief Executive Office and Board offices could link to a private website that provides information about community activities in unincorporated areas.

The Department of Parks and Recreation could link to a site that provides sports league management services.)

A disclaimer must be displayed on the County's website as the user exits in accordance with Section 8 below.

**4. County Program Sponsors and Donors**

County program sponsors and cash or services donors may be acknowledged



through a display of their names, logos or other information, but no link is permitted to their websites. The listing of such sponsors or donors is limited to secondary pages of websites, but may be accessed from the primary page. Departments are responsible for informing the Board of such donations through the current established process for donations.

(Examples: Public Works could list sponsors or environmental programs, but could not link to their sites.

Beaches and Harbors and Parks and Recreation could name their official sponsors.

Private designers of websites who have donated their services may be acknowledged, but no link is permitted to their websites.)

**5. Government Agencies; Academic Institutions; Public-Private Partnerships; Professional, Cultural, Community-Based and Non-Profit Organizations**

Links to such institutions are permitted on department websites when the site contains information that enhances services provided by the department.

**6. Links to Search Engines**

Links to search engines are permitted where presenting information from a variety of sources external to the department would advance a department's core mission.

**7. No Links to Sites Containing Inappropriate Material**

Links to sites containing inappropriate material are expressly prohibited.

**8. Notice of Leaving County Website and a Disclaimer**

When providing links to Non-County sites, departments must include a disclaimer on their home page disavowing endorsement or responsibility for the material on sites being linked. Departments must also use a standardized alert or redirect script page that warns users they are leaving the County site and allows them to proceed or cancel. This alert would read: "You are now leaving the County of Los Angeles website and linking to a website that may contain commercial advertising. The County of Los Angeles does not endorse or support any of the advertising that may be contained on this site. For more information on the County's use of websites that may contain commercial advertising, please click on "About this Site." Do you wish to continue? "Yes" or "No."

**9. Contractors that Create Websites for County Departments**

Departments shall provide website contractors with a copy of this policy and website design guidelines, which contractors shall observe in creating WebPages for



departments. The requirement to follow these guidelines shall be set forth in contract for website design. The Internal Services Department, in creating WebPages for departments, shall enforce the adopted guidelines.

#### **10. Authority of Chief Executive Officer**

The CEO is authorized to order removal of material from department websites that is noncompliant with these adopted guidelines.

#### **11. Link Maintenance**

Departments shall check links on their websites, at least once a month, to ensure they are functional and contain no material that violates this policy.

### **RESPONSIBLE DEPARTMENT**

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Chief Executive Office

Chief Information Office

County Counsel

Auditor-Controller

### **DATE ISSUED/SUNSET DATE**

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**Issue Date: July 16, 1996**

**Reissue Date: February 13, 2001**

**Review Date: July 20, 2006**

**Review Date: November 17, 2011**

**Sunset Date: February 13, 2001**

**Sunset Date: July 18, 2006**

**Sunset Review Date: July 18, 2011**

**Sunset Review Date: July 18, 2016**